and were repeatedly asking for the establishment of a Munsiff's Court. It was, therefore, a source of additional hardship to them that they were going to be deprived of even the Magistrate's Court which they possessed at present. The inhabitants of the *pakuthies* the criminal jurisdiction of which was proposed to be shifted to Neyyattinkara would be put to positive inconvenience and the same was the case with the areas proposed to be shifted for the purposes of magisterial jurisdiction to the other taluks. In point of criminal work too, the Member stated that there were not sufficient arrears to warrant a change of magisterial jurisdiction. The appointment of an Assistant Tahsildar and the separation of the Devaswom work from the Revenue Department would make the magisterial work of the Tahsildar too heavy to be managed by him. For the above reasons the Member requested that the magisterial work of the taluk should not be distributed among the Magistrates of the other taluks. He also prayed for the establishment of a Munsiff's Court at Nedumangad, at least as a tentative measure for a period of three years.

30. Undesirability of abolishing the Magistrate's Court at Pattanapuram.

Mr. Padmanabha Pillai Kochukunju Pillai (Member, Pattanapuram Taluk) represented that most of the inhabitants of the taluk were very poor, that to compel them to go to Shencottah—a place about 50 miles off—in connection with their criminal cases was very hard, and that revenue matters were not of such serious consequence to the public as magisterial matters which touched both their personal safety and the safety of their property more intimately. He, therefore, suggested that the Magistrate's Court at Punalore might be continued there and that, if funds were needed for the purpose, the same might be obtained by the reduction of a few *pakuthies* in the taluk.

Dewan's reply.—I shall give a joint reply to the two Members. The matter is still under consideration. No final decision has been arrived at. All the points referred to by the two Members will be considered.

31. Desirability of divesting Revenue Officers of their magisterial powers and placing the Magistrates under the supervision of the High Court.

Mr. Tariatu Kunjitomman (Member, Muvattupuzha Taluk) referred in laudatory terms to the recent policy pursued by Government in giving a non-official majority to the Legislative Council and in widening the franchise. The announcement made in the opening address of the Dewan about the separation of the Devaswoms from the Land Revenue Department would also be gratefully received by the public, as the proposed measure would result in the separation of the Revenue and the Magisterial functions—a subject on which he spoke last year also. The Member's view was that the separation would not involve the State in any additional expenditure and that, on the other hand, the work of the Revenue Department and the Magistracy would be done more efficiently and promptly and to the greater convenience of the people. At present the litigant public were being put to considerable hardship and inconvenience on account of parties and their witnesses having to accompany the Tahsildars in their official tours. The Member, therefore, recommended the separation of magisterial work from revenue officers and the placing of the Magistrates under the direct control of the High Court.

Dewan's reply.—There is no difference between the Government and the Member as regards the soundness of the policy suggested by him. But he cannot overlook the fact that there are some practical difficulties in giving full effect to his suggestions. The Government will do their best to give effect to this policy as far as possible.

32. Some suggestions for the better administration of justice, civil and criminal.

Mr. V. R. Gopala Pillai (Member, Kunnatnad Taluk) began by referring to the delay which was a general feature of the work of civil courts in the State. He pointed out that more than a period of 3 years was taken for the disposal of even simple original cases. The main reason for this delay was the failure to serve processes in time. There was similar delay in the case of execution applications also. The Member suggested that, if courts would allow interest at 12 per cent for the plaint amount after the institution of the suit and a similar rate of interest on costs

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after decree, it would conduce to a certain extent to the avoidance of such delays. He stated that a minimum of 40 contested original cases per mensem fixed for the disposal of Munsiffs by the High Court caused great hardship to the litigant public. Old and tough cases which required time and labour were left as they stood, while simple and easy cases were taken up for disposal. The work of the Munsiffs had to be tested more by the quality of the disposal than by the number of suits disposed of. In urging the necessity of closer inspection of Courts the Member suggested that one of the High Court Judges should conduct a thorough inspection of the Munsiffs' Courts at least once a year and that the present method of inspection during vacation should be stopped, arrangements being made for the annual inspection of subordinate courts when they were actually at work. He next complained of the great difficulty experienced by the litigants in securing copies of revenue records such as *ozhugu*, *thandaper* and *vilangiper*, for production in courts. In cases where the Sirkar was a party, such records, even though called for, would never be forthcoming. The general impression among the people was that confidential instructions had been issued for not giving copies of such records. The Member prayed for prompt orders being given to the revenue officers to grant copies of records on application. The next suggestion of the Member was that courts might be directed to issue warrants in execution cases and processes for witnesses in pending cases on the same day the applications were made for the same on payment of double process fees, in conformity with the practice obtaining in British India and Cochin. It was also urged that it would be well if arrangements could be made for the grant of copies of Settlement Registers from civil courts direct (mostly for production in execution cases), as the practice of obtaining copies of *chittas* from the Taluk offices was both costly and inconvenient. When after the decree the judgment-debtor deposited the whole or a part of the decree amount and the decree-holder applied for payment of the amount, the courts insisted on the production of a copy of the decree. This meant unnecessary delay and expenditure to the decree-holder. Since the judgment-debtor had deposited the amount, he could not be rendered liable for the further cost incurred in the production of a copy of the decree. The Member suggested that in such cases the existing practice should be put a stop to and that, if necessary, the courts might be directed to refer to the original decree itself. Again, the courts insisted on the appearance of guardians of minors before them for ascertaining their consent which led to extraordinary delay and miscarriage of justice. Parties sometimes produced paupers and made them consent, and thus this procedure was a fruitful source of fraud as well. It was necessary to devise some measure to minimise this evil. Another important point demanding immediate attention was that presiding officers in courts, both civil and criminal, should be strictly directed to read the statements of witnesses and parties in the open court. The decision in criminal cases entirely depended on oral evidence. The omission to record the statements, as they were given, and to read them in the open court in the presence and to the hearing of parties or their pleaders resulted in grave miscarriage of justice. The statements were written most illegibly by some Magistrates; and the copyists made their own interpretations of those statements when they had to fair copy the same. He could not help submitting that the subordinate Magistrates showed special favour towards the prosecution side in departmental cases, e. g., Forest, Police and Excise. Adjournments were frequently made owing to the absence of the prosecuting officers and parties and witnesses suffered in consequence. The result of the decisions in departmental cases was reported to Government by the Head of the Department, and this indirectly influenced the Magistrates in the decision of those cases. Heads of Departments should be strictly prohibited from making such reports. Punishments awarded in departmental cases were very severe. The issue of confidential circulars to the Magistracy to inflict deterrent punishments in such cases interfered with the proper administration of justice and such a course of action deserved to be discontinued. District Magistrates who had not much magisterial work to attend to should be directed to revise the calendars and appeal statements of the subordinate Magistracy. Raw and inexperienced men were often appointed as subordinate Magistrates and they committed a large number of judicial blunders. The order that subordinate Magistrates should send a return

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of adjournments of cases to Government should be cancelled, as it served no useful purpose. The work of the Magistrates could not be checked by the number of adjournments in every case. With a view to avoid too many adjournments the Magistrates decided cases in a summary and abrupt manner which resulted in failure of justice. The circular fixing a time limit of six weeks for the disposal of summons cases and three months for the disposal of warrant cases by the High Court should be cancelled. The Magistrates, for fear of transgressing the time-limit, disposed of cases without due regard to justice. The Magistracy should have some control over the Police. Processes from Magistrates had to be served by the Police and the orders of the Magistrates had to be carried out through the Police. In the absence of control over the Police, the Magistrates were not in a position to carry out their orders satisfactorily. The Member finally observed that Section 70 of the Police Regulation set at naught the provisions of the Criminal Procedure Code and the decisions of the High Court in the matter of sanction for prosecuting Police Officers not removable from service without the sanction of Government. This Section caused considerable hardship and deserved to be deleted. He prayed that the Government might accord sanction when the same was applied for without any preliminary enquiry, the parties being left to fight out their case in a court of law.

Dewan's reply.—I am afraid that my reply to you must necessarily be long. I do recognise the great value of the remarks you have made, and the Government are very thankful to you for pointing out the various difficulties that the litigant public experience, and the various defects which, in your opinion, exist in the administration of civil and criminal law. You have complained, and I think very rightly, about the delay in the disposal of cases and in the administration of justice. I am, however, surprised that you should take objection to one or two measures which the Government and the High Court have recently adopted with the very object of expediting the administration of justice. I am more conversant with the administration of criminal justice than of civil justice and I may explain to you the reason for the institution of the return, to the Huzur Office, of adjournments of criminal cases by the subordinate magistracy. It is not the idea of Government that they should decide the propriety or otherwise of any particular adjournment. But the delays in the administration of criminal justice are, in the opinion of Government, so abnormal that something should be done with a view to reduce that delay. We have called for a monthly return from the Magistrates. Assume for example that 20 cases are shown as pending by a Magistrate. He gives 6 to 7 adjournments in some of these cases and 12 to 15 in the other cases. In some cases the adjournments may be quite justifiable, while in others they may not be justifiable at all. If you take these figures as a whole and review them, I ask you whether you cannot form some idea as to whether the Magistrate is doing his honest best to reduce the pendency on his file and administer justice more expeditiously than before. The object of Government in calling for this temporary return is to make the Magistrates realise the great necessity for the dispensation of prompt justice and for avoiding the present abnormal delays. The Government will not condemn a Magistrate or pronounce a verdict on him from a perusal of the return of adjournments alone. But the return gives the Government a broad idea of the general work of the Magistrate.

You have next objected to the High Court's Circular. Like Government the High Court have also found that the administration of justice is being delayed abnormally. The circular does not mean that no cases whatever should be delayed for more than the period mentioned in the circular. If, for instance, the accused in a case absconds, how can it be disposed of within the prescribed time? There must be an exception to every rule.

Passing from that, you have mentioned a number of instances in which improvement is possible in the administration of civil justice. I do not profess to know the procedure in regard to the administration of civil justice. The High Court, so far as I can see, are looking very carefully into the work of the Munsiffs. I shall place all your suggestions and remarks before the High Court, with a request to consider them in connection with the revision of the Civil Rules of Practice, in which they are now engaged.

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Then you have dealt with the present inadequacy in the inspection of courts by superior officers. I agree with you in the view that these inspections should be more frequent and intensive. The present law does not empower the High Court to depute one of their number to make inspections. That deputation requires the sanction of Government and this defeats the very purpose of the inspection. It is in contemplation to amend the High Court Regulation so as to enable the High Court to depute one of their judges to make surprise inspections.

In regard to copies of revenue records, I am not aware of any confidential circular which directs that copies of revenue records should not be given. As a rule, copies of all revenue records should be given, whether they are in favour of, or against, Government; they are public records and everybody is entitled to get copies of them. The draft rules in regard to the granting of copies enunciate this principle clearly.

In regard to non-compliance with the provisions of the Criminal Procedure Code in the matter of reading out depositions, the defect pointed out by you is a serious one, if it exists so largely. I shall impress upon all the District Magistrates the imperative duty on the part of the Magistrates themselves to read out the depositions in open courts before the deponents are asked to sign them. This is done in Sessions Courts and should also be done in all courts.

You then refer to the special favour shown by Magistrates to the prosecution in departmental cases. You have not quoted any specific instances and I am afraid that the charge is unfounded. You would be surprised if I say that the percentage of convictions secured in Police cases in 1096 is 47. You have also not quoted any instance of the Police Commissioner or any other Head of a Department having tried to influence the Magistrates or of the Government having tried to influence the Magistrates. I have not come across any instance in which the Head of a Department has reported against a Magistrate or blamed him for deciding cases in a particular way. There are a few instances in which Heads of Departments have said that the decisions in particular cases were wrong, and suggested that the Head Sirkar Vakil be asked to prefer an appeal. That is all.

In regard to punishments, there is the right of appeal. There may be vagaries on the part of some Magistrates. Some do blunder. There is the right of appeal and there are other ways of redressing such matters. I know there are certain Magistrates who do commit very glaring and stupid errors. That is one reason why I want to change the system of recruitment of Magistrates.

You have next complained about the delay in the execution of processes. You suggest that the Magistrates should be given some powers over the Police. I knew Mr. Pitt when I was a District Magistrate in British India. This is one of those matters in which he is very strict over his subordinates. What he says is: "Let the Magistrate complain to the District Superintendent of Police or let him write to the District Magistrate and let the latter write to me. I shall go into the matter at once and punish the man responsible". This is the attitude of the Commissioner of Police in regard to this matter. You cannot give the Magistrates administrative control over the Police. Duality of control will never do. There is nothing to prevent the Magistrate from complaining.

As regards Section 70 of the Police Regulation, I cannot give a reply offhand. All that I can say is that your remarks will be considered.

33. Some grievances of the litigant public.

Mr. C. P. Kochukunju Pillai (Member, Kottarakara Taluk), in ventilating the grievances of the litigant public, represented that the High Court Circular requiring Munsiffs to dispose of 40 contested suits in a month should be modified, because the Munsiffs, after disposing of 7 or 8 cases, got through the remaining cases hurriedly, so as to make up the specified minimum, and this resulted in considerable hardship to the litigant public. Secondly, in regard to the attachment of immovable properties, the law prescribed the production of

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